

REMARKS:

Claims 76-92 are currently pending in the application. Claims 1-75 have been previously withdrawn and/or cancelled. The Applicant hereby reserves the right to pursue any of the cancelled and/or withdrawn claims in continuation and/or divisional applications.

Claims 76-81 and 83 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,960,094 to Small (Small '094) in view of U.S. Patent No. 5,954,417 to Mai. Claim 82 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of U.S. Patent No. 5,954,417 to Mai and further in view of U.S. Patent No. 2,863,466 to Small (Small '466). Claim 84 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of Mai and further in view of U.S. Patent No. 5,584,564 to Phyle. Claim 85 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of Mai and further in view of Phyle and further in view of WO 93/00840 to Perrier et al. Claims 86-89 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent No. JP 9168415 to Oshio in view of Small '094. Claims 90-92 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oshio in view of Small '094 and further in view of U.S. Patent No. 6,058,951 to Wilson and U.S. Patent No. 5,373,287 to Doublet.

The Applicant submits that no new matter has been added to the application by this Amendment.

Claim Objections:

The Examiner has objected to Claim 87. The Examiner states that the phrase "light emitting diodes" lacks antecedent basis.

The Applicant respectfully submits that the Examiner's objection to Claim 87 is erroneous. Claim 87 is dependent upon Claim 86. The last clause of Claim 86 clearly states "a lighting system carried by the rib members, the lighting system having a plurality of **light emitting diodes** conductively coupled to the at least one rechargeable battery." Thus, there is antecedent basis for the phrase "light emitting diodes" in Claim 87.

Therefore, the Applicant requests that the Examiner's objection to Claim 87 be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a):

The Applicant reiterates here all of the arguments and remarks that Applicant has previously set forth which distinguish the Applicant's invention over all of the prior-art references cited by the Examiner. The Applicant respectfully submits that he has distinguished the claimed invention over each and every combination of references cited by the Examiner. As such, the Applicant submits that the references cited by the Examiner, either alone or in combination, do not anticipate or render obvious the claimed invention.

Claims 76-81 and 83 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,960,094 to Small in view of U.S. Patent No. 5,954,417 to Mai.

The Examiner states that Small '094 discloses an umbrella apparatus comprising a pole portion 10 and an umbrella portion 11, "the umbrella apportion including ribs 11" - including elements 12 - starching the top 11 (Figure 1, column 1, lines 47-50)" This rejection does not make sense. First, there is no reference number 11' in Figure 1 or any of the other figures, nor is there a reference number 11' mentioned anywhere in the specification of the cited Small '094 patent. Second, the phrase "starching the top 11" makes no sense. As such, the Applicant respectfully submits that the Examiner's rejections of Claims 76-81 and 83 make no sense whatsoever, and are improper.

The Small '094 patent discloses an umbrella having an electrical opening and closing system, not a lighting system. The Small '094 device has a conventional battery and a solar battery for powering an opening and closing system. The Small '094 patent utilizes a "conventional collapsible top 11," but does not even mention any ribs specifically, in particular, Small '094 does not mention any "ribs 11'." Small '094 makes no teaching, mention, or suggestion whatsoever of using the ribs to carry lighting

elements. The Examiner concedes of this point. The Examiner relies upon Mai for this feature.

The Examiner is attempting to equate the transparent cover 84 affixed to the umbrella cover 3 of Mai with the claimed translucent materials disposed over the light emitting diodes, which are recessed within the rib members. The Applicant respectfully submits that the Examiner's interpretation is not well taken. In Mai, the transparent cover is a water proof seal affixed to the cover of the umbrella, not the ribs. In Mai, the lights are on the top of the cover. That is because the Mai device is a warning device. Therefore, the seal in Mai must be on the top of the cover to prevent water from damaging or shorting the lights, which are on the top of the cover, not underneath the cover carried by the ribs. As such, the water seal in Mai could not be used as the translucent materials in the claimed invention. For at least the foregoing reasons, the Applicant submits that it would not have been obvious at the time of the invention to combine the teachings of Small '094 and Mai to arrive at the claimed invention.

Claim 76 is hereby amended to clarify that the ribs are "radially extending" ribs. Claims 77-81 and 83 are not hereby amended, but remain dependent upon Claim 76, which is hereby amended. Therefore, the Applicant submits that Claims 76-81 and 83, as amended, are now in condition for allowance, and respectfully requests that Claims 76-81 and 83, as amended, be allowed.

Claim 82 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of U.S. Patent No. 5,954,417 to Mai and further in view of U.S. Patent No. 2,863,466 to Small (Small '466).

The Applicant reiterates here all of the distinguishing remarks set forth above with respect to Small '094 and Mai. In addition, the Applicant submits that Small '466, which is not even a solar umbrella, is completely devoid of any mention of releasably coupling the crown 27 to a rechargeable electrical power source. As such, the Applicant submits that none of the references cited by the Examiner, either alone or in combination, disclose the claimed invention. For at least the foregoing reasons, the Applicant submits that it would

not have been obvious at the time of the invention to combine the teachings of the cited references to arrive at the claimed invention.

Claim 82 is not hereby amended, but remains dependent upon Claim 76, which is hereby amended. Therefore, the Applicant submits that Claim 82 is now in condition for allowance, and respectfully requests that Claim 82 be allowed.

Claim 84 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of Mai and further in view of U.S. Patent No. 5,584,564 to Phyle.

The Applicant reiterates here all of the distinguishing remarks set forth above with respect to Small '094 and Mai. In addition, the Applicant submits that Phyle, which is not even a solar umbrella, is completely devoid of any mention of disposing a solar rechargeable electrical power source about the pole. As such, the Applicant submits that none of the references cited by the Examiner, either alone or in combination, disclose the claimed invention. For at least the foregoing reasons, the Applicant submits that it would not have been obvious at the time of the invention to combine the teachings of the cited references to arrive at the claimed invention.

Claim 84 is not hereby amended, but remains dependent upon Claim 76, which is hereby amended. Therefore, the Applicant submits that Claim 84 is now in condition for allowance, and respectfully requests that Claim 85 be allowed.

Claim 85 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Small '094 in view of Mai and further in view of Phyle and further in view of WO 93/00840 to Perrier et al.

The Applicant reiterates here all of the distinguishing remarks set forth above with respect to Small '094 and Mai. In addition, the Applicant submits that Phyle, which is not even a solar umbrella, is completely devoid of any mention of disposing a solar rechargeable electrical power source about the pole, and that Perrier does not include a detachable transformer for converting AC electrical power to DC electrical power. As such, the Applicant submits that none of the references cited by the Examiner, either alone or in combination, disclose the claimed invention. For at least the foregoing

reasons, the Applicant submits that it would not have been obvious at the time of the invention to combine the teachings of the cited references to arrive at the claimed invention.

Claim 85 is not hereby amended, but remains dependent upon Claim 76, which is hereby amended, and an intervening claim. Therefore, the Applicant submits that Claim 85 is now in condition for allowance, and respectfully requests that Claim 85 be allowed.

Claims 86-89 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent No. JP 9168415 to Oshio in view of Small '094.

The Applicant reiterates here all of the distinguishing remarks set forth above with respect to Small '094. In addition, the Applicant submits that in the Oshio device, the canopy is not adjacent to both the top cap and the solar energy system. For at least the foregoing reasons, the Applicant submits that it would not have been obvious at the time of the invention to combine the teachings of the cited references to arrive at the claimed invention.

Claim 86 is hereby amended to clarify that the canopy is adjacent to the top cap and the solar energy system. Claims 87-89 are not hereby amended, but remain dependent upon Claim 86, which is hereby amended. Therefore, the Applicant submits that Claims 86-89, as amended, are now in condition for allowance, and respectfully requests that Claims 86-89, as amended, be allowed.

Claims 90-92 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oshio in view of Small '094 and further in view of U.S. Patent No. 6,058,951 to Wilson and U.S. Patent No. 5,373,287 to Doublet.

The Applicant reiterates here all of the distinguishing remarks set forth above with respect to Oshio and Small '094. In addition, the Applicant submits that Wilson is for an opening and closing system and that Doublet is an anti-theft flag hoisting system. These references do not teach the claimed invention, either alone or in combination.

Claims 90-92 are not hereby amended, but remain dependent upon Claim 86, which is hereby amended, and an intervening claim. Therefore, the Applicant submits that Claims 90-92, as amended, are now in condition for allowance, and respectfully requests that Claims 90-92, as amended, be allowed.

Incorporation of Prior Remarks and Arguments:

The references cited by the Examiner have been previously cited by the Examiner in the subject application and other related applications filed by the Applicant and being handled by the Examiner. The Applicant reiterates here and incorporates here by reference all of the distinguishing arguments and remarks made by the Applicant in those applications. In particular, the Applicant reasserts here his Declaration Under 37 C.F.R. § 1.131 filed 23 March 2007, by which the Applicant swears behind many of the references cited by the Examiner, including Pan and Mai.

Reference To Related Applications and Reexamination Proceeding:

Applicant once again brings to the Examiner's attention U.S. Patent Application Nos. 11/199,956 and 10/829,790 and Inter Partes Reexamination Proceeding No. 95/000,104, which is a reexamination of U.S. Patent No. 6,612,713, the parent patent to the subject application.

Applicant again notes that a second Office Action was mailed in the Reexamination Proceeding on 5 December 2006. A response was filed by the Patent Owner, i.e., the Applicant herein, on 5 February 2007. Accordingly, the Applicant is presently awaiting action by the Examiner in the Central Reexamination Unit.

The Examiner is requested to review the Office Actions in the Reexamination Proceeding, as well as the Patent Owner's Responses to the Office Actions and all other papers and references filed in the Reexamination Proceeding. If the Examiner needs copies any of the documents from the Reexamination Proceeding and/or any of the related applications, the Examiner is respectfully requested to contact the undersigned.

CONCLUSION:

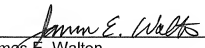
In view of the foregoing amendments and remarks, the Applicant respectfully submits that the application is now condition for allowance, and earnestly solicits an early reconsideration and a Notice of Allowance.

This Amendment is being filed via the U.S. Patent and Trademark Office's EFS-Web electronic filing system. The \$525.00 Three-Month Extension Fee is being paid via a designated credit card. No other fees are deemed to be necessary; however, the undersigned hereby authorizes the Commissioner to charge any fees that are necessary, or credit any overpayments, to **Deposit Account No. 502806**.

Please link this application to Customer No. 50779 so that its status may be checked using the PAIR System.

Respectfully submitted,

Date 9/18/08



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